



## Spain

### Country Reports on Human Rights Practices - [2001](#)

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Spain is a democracy with a constitutional monarch. The Parliament consists of two chambers, the Congress of Deputies and the Senate. In March 2000, Jose Maria Aznar of the Popular Party was reelected Prime Minister, with the title President of the Government. The next national elections must be held by March 2004. The Government respects the constitutional provisions for an independent judiciary in practice.

Internal security responsibilities are divided among the National Police, which are responsible for nationwide investigations and security in urban areas; the Civil Guard, which polices rural areas and controls borders and highways; and police forces under the authority of the autonomous communities of Catalunya and the Basque Country. While the security forces generally are under the effective control of civilian authorities, some members of the security forces committed human rights abuses.

The market-based economy, with primary reliance on private enterprise, provides the population of over 40 million with a high standard of living. The economy grew during the third quarter at a 2.6 percent annual rate. The annual inflation rate was 2.7 percent at year's end. Unemployment decreased to 12.8 percent during the year, continuing its downward trend.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were reports that at times security forces abused detainees and mistreated foreigners and illegal immigrants. Government investigations of such abuses were often lengthy, and punishments were light, which contributed to a culture of impunity, according to human rights groups. Lengthy pretrial detention and delays in trials were sometimes problems. Violence against women was a problem, which the Government took steps to address. Women also faced some discrimination in the workplace. Societal discrimination against Roma and immigrants remained a problem, as did occasional violence against immigrants. Trafficking in women and teenage girls for the purpose of prostitution was a problem.

The terrorist group ETA (Basque Fatherland and Liberty) continued its campaign of shootings and bombings, killing 15 persons during the year. ETA sympathizers also conducted a campaign of street violence and vandalism in the Basque region intended to intimidate politicians, academics, and journalists. Judicial proceedings against members of ETA continued, and Spanish and French police arrested dozens of suspected ETA members and collaborators.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

An Algeciras court opened an investigation into the December 2000 case in which a Civil Guard officer fatally shot an unarmed Moroccan, Abdelhadi Lamhamdi, in Tarifa. Also in December 2000, a court sentenced a Civil Guard officer to 1 year's imprisonment for shooting and killing Miriam Gomez, who was a passenger in a car fleeing the police in 1999 in Seville.

ETA, whose declared goal is to establish an independent Basque state, continued its terrorist campaign of bombings and shootings, killing 15 persons during the year. ETA publicly claimed responsibility for its attacks. On January 26, an ETA bomb explosion killed a navy cook in San Sebastian. On February 22, another bomb, intended for a Socialist Party councilor, killed two electrical workers in San Sebastian. On March 9, an ETA car bomb killed a member of the autonomous police force of the Basque Country, and on March 17 an ETA car bomb killed a member of the autonomous police force of Catalunya. On March 20, ETA assailants shot to death the deputy mayor of the Basque town of Lasarte. On May 6, ETA assailants shot and killed Manuel Gimenez Abad, the Aragon regional President of the Popular Party. On May 24, ETA assailants shot and killed Santiago Oleaga, the financial director of a major Basque Country newspaper. On June 26, ETA targeted Army General Justo Oreja with a bomb in Madrid; Oreja died from his injuries a month later. On July 10, an ETA car bomb killed a policeman in Madrid. On July 14, ETA killed a policeman in the Basque Country and a town councilor in Navarra. On November 7, ETA assailants shot and killed Jose Maria Lidon, a Basque provincial magistrate, in Getxo. On November 23, ETA assailants shot and killed two members of the Basque autonomous police.

The Government continued to pursue legal actions against ETA members. The courts convicted and sentenced more than 10 ETA members during the year. In January a court sentenced Mikel Arrieta Llopis to 128 years' imprisonment for a 1982 attack that killed three persons. In February a court sentenced Jose Luis Barrios to 232 years' imprisonment for a 1997 attack. In July former ETA leader Francisco Mugica Garmendia and Jose Maria Arregi Erostarbe each received more than 1,000 years' imprisonment for their roles in a 1988 attack in Madrid. In October Rafael Caride Simon was sentenced to 142 years' imprisonment for killing a Civil Guard officer in 1987. In December Jose Javier Zabaleta received 200 years' imprisonment for an attack that killed five persons in 1980. In December, following an October agreement, France for the first time temporarily extradited an ETA member serving a prison sentence to facilitate his trial in Spain. Mexico expelled two ETA members to Spain and extradited another.

Several organizations are dedicated to the concerns of victims of terrorism, among them the Association of Victims of Terrorism (AVT). The AVT serves 1,300 families, providing legal and psychological counseling since 1981. The Government supports its work. Under a 1999 law, the Government has compensated directly victims of terrorism and their families, including victims of the Antiterrorist Liberation Groups (government-sponsored death squads known by their acronym, GAL) in the 1980's.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices; however, suspects charged with terrorism at times assert that they have been abused during detention, and at times other detainees make similar charges. Amnesty International continued to criticize the Government for reports of brutality by security forces, particularly directed at foreigners and illegal immigrants. Amnesty International also reported that police abused undocumented Moroccan minors (see Section 5).

According to Amnesty International, in February Madrid police allegedly beat 18-year-old Pedro Garcia Munoz after an exchange of insults.

Iratxe Sorzabal Diaz, an ETA suspect expelled from France, alleged that Civil Guards tortured her in Madrid in March 2000. She subsequently lodged a formal complaint of torture with the National High Court, which remained pending at year's end.

The Government investigates allegations of torture; however, in a November 2000 report on impunity and mistreatment, Amnesty International criticized the judicial process for law enforcement officials accused of torture or mistreatment. Amnesty cited the length of the judicial process, light sentencing, and the use of pardons as factors that contributed to effective impunity. In January Amnesty International criticized the Government's inclusion of 14 members of the security forces, who had been convicted of torture, in a millenium pardon. Also contributing to a climate of impunity, according to Amnesty International, were poor standards of forensic medical reporting and the continued use of incommunicado detention (see Section 1.d.).

In July a Bilbao court sentenced eight Civil Guard members to 4 years' and 6 months' imprisonment for torturing seven suspected members of ETA in 1980.

In July the Council of Europe's Committee for the Prevention of Torture (CPT) visited the country. The CPT's

report had not been released by year's end. The Government permits outside parties to investigate allegations of torture. On March 15, the Council of Europe's Commissioner for Human Rights released a report on his February visit to the Basque Country. He noted that Senideak, a Basque separatist prison rights organization, which had complained about the torture of convicted terrorists, failed to provide any specific examples, and that during his tour of Basauri Prison on February 6, he did not receive any complaints of mistreatment or torture from prisoners.

In addition to killings, ETA bombings and attempted bombings caused numerous injuries and property damage. Several of these attempts were directed at the tourist industry, including June car bombings in Logrono and San Sebastian, and August car bombings in the Madrid airport parking facility and the resort town of Salou. In August ETA also blew up some sections of a high-speed train track. On May 15, a package bomb severely injured journalist Gorka Landaburu (see Section 2.a.). In October ETA exploded a car bomb in front of the Vitoria courts building and another in Madrid, injuring 17 persons. A November 6 car bomb in Madrid caused 59 injuries. ETA sympathizers also continued to commit numerous acts of street violence and vandalism in the Basque region throughout the year. On August 6, two members of the Basque autonomous police were severely injured after an attack by hooded ETA sympathizers. The police arrested more than 150 persons in connection with street violence by ETA sympathizers.

There were occasional reports of violence against immigrants, particularly by rightwing youth groups (see Section 5).

Prison conditions generally meet international standards; however, in a June report compiled by the Coordinator in Solidarity with Imprisoned Persons, an umbrella prison rights nongovernmental organization (NGO), prisoners claimed that they were tortured or mistreated by prison staff in 151 incidents during 1999 and 2000. The same report noted that in January, three prison officials were sentenced to a year's imprisonment for a case of mistreatment in 1997. In the prison system, women are held separately from men; juveniles are held separately from adults; and pretrial detainees are held separately from convicted criminals.

Senideak continued to demand that all imprisoned ETA terrorists be moved to prisons in the Basque region or the adjacent region, Navarra, to be closer to their families. As of July, more than 400 ETA terrorists were in prison.

The Government permits prison visits by independent human rights monitors, one of which visited prisons in July.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally observes these prohibitions in practice. A suspect may not be held for more than 72 hours without a hearing except in cases involving terrorism, in which case the law permits holding a suspect an additional 2 days--or a total of 5 days--without a hearing. A judge may authorize incommunicado detention for terrorism suspects. Amnesty International and other NGO's have criticized this provision.

At times pretrial detention can be lengthy. By law suspects may not be confined for more than 2 years before being brought to trial, unless a further delay is authorized by a judge, who may extend pretrial custody to 4 years. In practice pretrial custody is usually less than a year. In previous years, criticism was heard in legal circles that some judges used "preventive custody" as a form of anticipatory sentencing; however, this practice rarely, if ever, was used during the year. At year's end, approximately 22 percent of the prison population was in pretrial detention (10,652 out of 48,118 inmates), although that number included convicted prisoners whose cases were on appeal.

The law on aliens permits the detention of a person for up to 40 days prior to deportation but specifies that it must not take place in a prison-like setting (see Section 2.d.).

The Constitution prohibits forced exile, and the Government does not employ it.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice.

The judicial structure consists of local, provincial, regional, and national courts with the Supreme Court at its apex. The Constitutional Court has the authority to return a case to the court in which it was adjudicated if it

can be determined that constitutional rights were violated during the course of the proceedings. The National High Court handles crimes such as terrorism and drug trafficking. The European Court of Human Rights is the final arbiter in cases concerning human rights.

The Constitution provides for the right to a fair public trial, and an independent judiciary generally enforces this right. There is a nine-person jury system. Defendants have the right to be represented by an attorney (at state expense for the indigent). Defendants are released on bail unless the court believes that they may flee or be a threat to public safety. Following a conviction, defendants may appeal to the next higher court.

The law calls for an expeditious judicial hearing following arrest; however, the judicial process is often lengthy (see Section 1.d.). In cases of petty crime, suspects released on bail sometimes wait up to 5 years for trial.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respects these prohibitions in practice. Under the Criminal Code, the authorities must obtain court approval before searching private property, wiretapping, or interfering with private correspondence. However, the antiterrorist law gives discretionary authority to the Minister of the Interior to act prior to obtaining court approval in "cases of emergency."

The parents or legal guardians of a person with mental disabilities may petition a judge for sterilization of that person (see Section 5).

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects this right in practice. Opposition viewpoints, both from political parties and nonpartisan organizations, are reflected freely and widely in the media.

Spain has an active and independent media, with numerous newspapers, television, and radio stations at the local, regional and national level. Access to the Internet is unrestricted.

In March 2000, the Supreme Court prohibited the radical Basque party Euskal Herritarrok (EH) from using free broadcast time in the public media.

ETA and its sympathizers continued their violent campaign of intimidation against political, press, and academic professionals and organizations in the Basque country (see Sections 1.a. and 1.c.). These attacks included the May killing of Santiago Oleaga, the financial director for the newspaper El Diario Vasco, which had criticized ETA, and the explosion of a package bomb that severely injured journalist Gorka Landaburu, also in May. There were many ETA attacks that caused only property damage; for example, on March 3, numerous hooded ETA supporters threw Molotov cocktails at the headquarters of the newspaper El Correo. In a March report, the Council of Europe's Human Rights Commissioner noted that violent youth groups, inspired or controlled by ETA, were a determining factor in maintaining a climate of terror in the region. Various organizations, including Reporters Without Borders and the World Association of Newspapers, criticized ETA for its assaults on civil liberties.

Academic freedom is respected.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for the freedoms of assembly and association, and the Government generally respects these rights in practice.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

The 1978 Constitution, which declares the country to be a secular state, and various laws provide that no

religion should have the character of a state religion; however, Catholicism is the dominant religion and enjoys the closest official relationship with the Government. Among the various benefits enjoyed by the Catholic Church is financing through the tax system. Jews, Muslims, and Protestants have official status through bilateral agreements but enjoy fewer privileges. Other recognized religions, such as Jehovah's Witnesses and the Church of Jesus Christ of Latter-Day Saints (Mormons), are covered by constitutional protections but have no special agreements with the Government.

The law establishes a legal regime and certain privileges for religious organizations; to benefit from this regime, religious organizations must be entered in the Register of Religious Entities maintained by the General Directorate of Religious Affairs in the Ministry of Justice. To register with the Ministry of Justice, religious groups must submit documentation supporting their claim to be religions. If a group's application is rejected, it may appeal the decision to the courts. Religions not recognized officially, such as the Church of Scientology, are treated as cultural associations. The Catholic Church does not have to register with the Ministry of Justice's religious entities list; however, some entities of the Catholic Church do register for financial or other reasons. Religious courses are offered in public schools but are not mandatory.

Leaders of the Protestant, Muslim, and Jewish communities reported that they continued to press the Government for comparable privileges to those enjoyed by the Catholic Church. Their list of requests included public financing, expanded tax exemptions, improved media access, and fewer restrictions on opening new places of worship. For example, the government income tax form includes a box that allows taxpayers to assign 0.5239 percent of their taxes to the Catholic Church. Protestant and Muslim leaders would like their communities to receive government support through an income tax allocation or other designation.

In December a Madrid court acquitted 15 Spanish citizens of charges of illicit association and tax evasion. The charges arose from a fraud complaint against Church of Scientology offices Dianetica and Narconon and the subsequent arrest of Scientology International President Heber Jentzsch and 71 others at a 1988 convention in Madrid. Scientology representatives asserted that the indictment against Jentzsch, who was not part of the trial, was religiously based, a claim denied by officials.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution and law provide for these rights, and the Government generally respects them in practice.

The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations, including the Spanish Committee for Assistance to Refugees (CEAR), in assisting refugees and asylum seekers. Under the law, asylum requests are adjudicated in a two-stage process, with the Office of Asylum and Refugees (OAR) making an initial decision on the admissibility of the application for processing. The Interministerial Committee for Asylum and Refuge (CIAR) examines the applications accepted for processing. The CIAR includes representatives from the Ministries of Interior, Justice, Labor, Foreign Affairs, and a nonvoting member of the UNHCR. The Minister of the Interior must approve the decision of the CIAR in each case. According to provisional statistics, of the 9,490 applications for asylum during the year, the Government granted 303 persons asylum status and admitted 252 others for humanitarian or other reasons. The largest number of applicants came from Colombia, Nigeria, Sierra Leone, and Cuba. The law provides for first asylum, but the issue of first asylum did not arise during the year. The UNHCR advises authorities throughout the asylum process. Applicants for asylum have the right to have their applications sent immediately to the local office of the UNHCR. The authorities are not bound by the judgment of the UNHCR in individual cases, but they often reevaluate decisions with which the UNHCR does not agree. Appeals of rejection at either stage may be made to the National High Court, and appeals of the National High Court's decisions may be made to the Supreme Court.

Asylum requests may be made from outside, as well as within, the country. Anyone can request asylum from a Spanish diplomatic or consular representative outside the country. Illegal immigrants are permitted to apply for asylum. Those who lack visas or permission to enter the country may apply at the border or port of entry; the applicant in such cases may be detained until a decision is made regarding the admissibility for processing of the application. In cases where persons apply inside the country, a decision must be reached within 2 months, but in cases where persons apply at a port of entry this period is reduced to 72 hours. The period for filing an appeal in such cases is 24 hours.

The ombudsman has challenged before the Constitutional Court the legality of detaining applicants at the border. The Court issued a preliminary decision in which it ruled that this form of detention does not deprive the detainee of his liberty. This provisional decision allowed the Government to continue to detain applicants without modifications to its detention procedures. A final decision was pending at year's end.

The ombudsman also has expressed his concern over the high percentage of applications not admitted for processing (approximately 75 percent during the year). However, many persons with falsified documents are rejected early in the process. Many such applicants come from politically stable but economically impoverished countries.

Applicants have the right by law to free legal assistance, regardless of where they are when they apply for asylum. This assistance is available from the first step in the process through any appeals of unfavorable decisions. The applicant also has the right to the assistance of translators and interpreters, and the OAR admits documents in any language without requiring an official translation.

There is no distinction between asylum status and refugee status. The Government's practice of substituting temporary admittance on humanitarian grounds for the granting of asylum also has been criticized. The former status includes some restrictions on access to the labor market and welfare payments, although it does grant the applicant residency and work permits. Another concern is that in some cases individuals whose asylum requests were turned down may have been expelled while their appeals were still in progress, although no statistics were available. The law allows the applicant a 15-day grace period in which to leave the country if refugee or asylum status is denied. Within that time frame, the applicant may appeal the decision, and the court of appeal has the authority to prevent the initiation of expulsion procedures, which normally begin after 15 days.

In 2000 increased illegal immigration led the Government to modify its laws on immigration. Since then over 600,000 immigrants applied to regularize their status. Over 300,000 applications were approved through the end of the year, and the Government planned to complete the regularization process in April 2002.

There were no reports of the forced return of persons to a country where they feared persecution.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Spain is a multiparty democracy with open elections in which all citizens 18 years of age and over have the right to vote by secret ballot. At all levels of government, elections are held at least every 4 years. In the 1996 national elections, Jose Maria Aznar of the Popular Party became President of the Government, ending Socialist (PSOE) rule. The Popular Party received an absolute majority in the 2000 parliamentary elections. The next national elections must be held by March 2004.

Governmental power is shared between the central Government and 17 regional "autonomous communities." Local nationalist parties give political expression to regional linguistic and cultural identities.

The percentage of women in government or politics does not correspond to their percentage of the population, although their participation in the political process has increased. Of 19 Cabinet Ministers, 3 are women. The President of the Senate and the Speaker of the Chamber of Deputies are women. The number of female Members of Parliament increased after the 2000 elections: of the 350 members of the lower house, 99 are women. Of 259 Senators, 63 are women. In the 1999 European Parliament elections, both the PP and PSOE placed women at the top of their lists. On the PSOE list, 50 percent of the candidates were women. At year's end, 22 of the 64 Spanish members of the European Parliament were women.

### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups in general operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are cooperative and responsive to their views. Nongovernmental human rights groups include the Human Rights Association of Spain in Madrid and the Human Rights Institute of Catalunya in Barcelona.

The Constitution provides for an ombudsman, called the "People's Defender," who as part of his duties actively investigates complaints of human rights abuses by the authorities. The ombudsman operates independently from any party or government ministry, must be elected every 5 years by a three-fifths majority of the Congress of Deputies, and is immune from prosecution. He has complete access to government institutions and to all documents other than those classified for national security reasons and may refer cases to the courts on his own authority. The ombudsman has a staff of approximately 150 persons and received some 25,000 complaints during the year. The majority of the complaints pertained to education and social services, although some dealt with discrimination, domestic violence, and mistreatment by law enforcement agencies.

Government agencies are responsive to the ombudsman's recommendations. Several of the autonomous communities have their own ombudsman, and there are ombudsmen dedicated to the rights of specific groups, such as women, children, or persons with disabilities.

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equal rights for all citizens, and discrimination on the basis of sex, race, ethnicity, nationality, disability, ideology, or religious beliefs is illegal; however, social discrimination against Roma and immigrants is a problem. The Government continued to take steps to reduce violence against women.

##### Women

Violence against women, particularly domestic violence, remained a problem. According to the Government, 42 women and 3 men were killed as a result of domestic violence during the year, compared with at least 40 women and 6 men in 2000. During the year, women filed 5,983 criminal complaints and 18,175 misdemeanor complaints against their husbands or male partners. In 2000 women filed 5,722 such criminal complaints and 14,846 such misdemeanor complaints. A 1999 study commissioned by the Women's Institute, which is part of the Ministry of Labor and Social Affairs, indicated that 4.2 percent of women reported domestic abuse in the previous year but concluded that the number who actually had been abused was closer to 12.4 percent, based on the survey responses of approximately 20,000 women.

The law prohibits rape and spousal abuse. Police received 1,219 reports of rape during the year. In May the Government initiated its second Plan Against Domestic Violence, with a proposed budget of \$72 million (13 billion pesetas) over 4 years. The four principal areas outlined in the plan are preventive education; improvements in judicial regulations and practices to protect victims and increase the penalty for abusers; the extension of social services for abused women to all parts of the country; and increased coordination among the agencies and organizations involved in preventing domestic violence.

During the first plan, from 1998 to 2000, the Government sponsored 3 publicity campaigns and distributed over 750,000 educational pamphlets. It trained additional personnel for each of the 54 Civil Guard units that assist battered women and created 43 similar units in the National Police. There are 53 offices that provide legal assistance to victims of domestic violence and approximately 225 shelters for battered women. A 24-hour free national hot line that advises women where to find local assistance or shelter received 260,000 calls in 2000.

Trafficking in women for the purpose of prostitution, primarily from Latin America, Africa, and Eastern Europe, was a problem (see Section 6.f.).

The law prohibits sexual harassment in the workplace, but very few cases have been brought to trial under this law. Police received 364 sexual harassment complaints during the year. Although prohibited by law, discrimination in the workplace and in hiring practices persisted. A 1998 study of 100 labor union contracts revealed that 38 contracts failed to use gender-neutral language, 22 employed gender-specific job titles resulting in the imposition of discriminatory wage differentials (i.e., the salary of a male secretary, "secretario," was 13 percent higher than that of a "secretaria" in one food processing industry contract), and only 17 addressed the problem of sexual harassment.

Discriminatory wage differentials continued to exist. A 1999 report by the General Workers' Union shows that women's salaries were 30 percent less than those of their male counterparts. In addition the Minister of Social Affairs reported that, while women constitute 43 percent of the work force, they held only 18 percent of senior management positions in the third quarter of the year. The female unemployment rate was 18.6 percent in the third quarter of the year, down from 20 percent in 2000; this is nearly twice the 8.9 percent rate for men. Women outnumber men in the legal, journalism, and health care professions but still play minor roles in many other fields.

Employers are exempted from paying social security benefits to temporary workers who substitute for workers on leave for maternity, child adoption, or similar circumstances. A ministerial order to increase women's presence in sectors in which they are underrepresented provides a 2-year reprieve from paying social security taxes to employers who hire women in these sectors. The 1999 National Employment Action Plan gives priority to battered women who search for employment.

##### Children

The Government is strongly committed to children's rights and welfare; it amply funds a system of public education and health care. Education is compulsory until age 16 and free until age 18. However, a 1998

study found that only 35 percent of Romani children are integrated fully into the educational system. Approximately 60 percent of Romani children do not complete primary school, and only very few progress to middle school and beyond. According to a report by the NGO Gypsy Presence, one-fifth of teachers describe themselves as anti-Roma, and one-fourth of students say that they would like to see Roma expelled from school. Truancy and dropout rates among Roma are very high, and Romani parents, over 80 percent of whom are functionally illiterate, often do not see the value of an education or are unaware of the educational opportunities for their children.

The Constitution obligates both the State and parents to protect children. The Ministries of Health and Social Affairs are responsible for the welfare of children and have created numerous programs to aid needy children. Numerous NGO's promote children's rights and welfare, often through government-funded projects. Several of the Autonomous Communities have an office of the Defender of Children, an independent, nonpartisan agency charged with defending children's rights. Under the Penal Code, children under the age of 18 are not considered responsible for their actions and cannot be sent to prison.

There appears to be no societal pattern of abuse of children. The 1995 Law of the Child gives legal rights of testimony to minors in child abuse cases; it also obliges all citizens to act on cases of suspected child abuse.

Trafficking in teenage girls for prostitution was a problem (see Section 6.f.).

Law enforcement and social service agencies reported an increasing number of undocumented immigrant children living on the streets. These children cannot legally work; as a result, many survive through petty crime. Amnesty International reported that police abused undocumented Moroccan minors, especially in the Spanish North African enclaves of Ceuta and Melilla, and that some undocumented minors are returned to Morocco without sufficient concern for their welfare.

#### Persons with Disabilities

The Constitution calls for the State to provide for the adequate treatment and care of persons with disabilities, ensuring that they are not deprived of the basic rights that apply to all citizens. The law aims to ensure fair access to public employment, prevent discrimination, and facilitate access to public facilities and transportation. The national law serves as a guide for regional laws; however, levels of assistance and accessibility differ from region to region and have not improved in many areas. Nevertheless there were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services.

The law continued to permit parents or legal representatives of a mentally disabled person to petition a judge to obtain permission for the sterilization of that person. In 1994 the Constitutional Court held that sterilization of the mentally infirm does not constitute a violation of the Constitution. In practice many courts in the past have authorized such surgery.

The Government subsidizes companies that employ persons with mental or physical disabilities. The Government mandates that all businesses that employ more than 50 persons either hire such persons for at least 2 percent of their workforce or subcontract a portion of their work to special centers that employ them.

#### National/Racial/Ethnic Minorities

Public opinion surveys indicated the continued presence of racism and xenophobia, which resulted in discrimination and, at times, violence against minorities. A 2000 poll regarding attitudes towards foreigners found that Spaniards identify most closely with other Western Europeans and Latin Americans, and that there is less acceptance of immigrants from Morocco and sub-Saharan Africa.

In 2000 the Council of Europe cited a resurgence in nationalism, sometimes violent, which manifested itself in intolerance towards Roma, Africans, and Arabs. The Council recommended that the Government implement the antiracist provisions of the Penal Code; provide better statistics on racist attacks and vulnerable groups; deal with the marginalization of Roma and immigrants; and combat the activities of rightwing networks.

During the year, there were occasional reports of attacks against immigrants, some of which were attributed to quasi-organized rightwing youth groups. A 1999 report by the NGO Movement Against Intolerance estimated that at least 10,000 persons were involved in ultrarightwing groups. Movement Against Intolerance reported in 2000 the presence of Spanish neo-Nazi groups on the Internet, who aimed their attacks at Maghrebi immigrants. Through their web pages, these groups urged others to take violent action against all immigrants of North African descent.



Roma continued to face marginalization and discrimination in access to employment, housing, and education. The Romani community, whose size is estimated by NGO's at several hundred thousand, suffers from substantially higher rates of poverty and illiteracy than the population as a whole. Roma also have higher rates of unemployment and underemployment, and up to 80 percent of employed adults work in the informal economy as peddlers or in seasonal agricultural work. A 2000 report by Gypsy Presence claims that one-third of Roma families are not economically self-sufficient. A 1998 study by the Foessa Foundation found that Roma occupied the majority of the country's substandard housing units. Several NGO's dedicated to improving the condition of Roma receive federal, regional, and local government funding.

In 1999 two men shot and wounded a Rom, Jose Garcia Garcia. After the two assailants were apprehended, the residents of Albaladejo, often led by the mayor, turned out in force to protest their incarceration and petition for their release. In June 2000, a court freed the two accused after they posted bond; their trial had not begun by year's end. Garcia and his family left Albaladejo.

A language or dialect other than Castilian Spanish is used in 6 of the 17 autonomous communities. The Constitution stipulates that citizens have "the duty to know" Castilian, which is the "official language of the state;" however, it also provides that other languages also may be official under regional statutes and that the "different language variations of Spain are a cultural heritage which shall...be protected." Laws in the Autonomous Communities of the Basque Country, Galicia, and Valencia require the community governments to promote their respective regional languages in schools and at official functions.

The Law of the Catalan Language, approved by the Catalan regional legislature (Generalitat) in 1998, stipulates the use of Catalan as the official language in local government and administrative offices, regional courts, publicly owned corporations, and private companies subsidized by the Catalan regional Government. Spanish-speaking citizens have the right to be addressed in Spanish by public officials. The legislation also establishes minimum quotas for Catalan-language radio and television programming. Some controversy continued over the implementing legislation and related regulatory measures.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution and laws ensure that all workers, except those in the military services, judges, magistrates, and prosecutors, are entitled to form or join unions of their own choosing, and workers exercise this right in practice. Approximately 15 percent of the workforce is unionized. Under the Constitution, trade unions are free to choose their representatives, determine their policies, and represent their members' interests. Unions are not restricted or harassed by the Government and are independent of political parties. The two main labor federations are the Workers' Committees (Comisiones Obreras) and the General Union of Workers (Union General de Trabajadores).

The Constitution provides for the right to strike. A strike in nonessential services is legal if its sponsors give 5 days' notice. Any striking union must respect minimum service requirements negotiated with the respective employer. The Constitutional Court has interpreted the right to strike to include general strikes called to protest government policy. According to the Ministry of Labor, there were 646 strikes during the year through November, with approximately 475,000 participants and 1.8 million lost workdays, compared with 727 strikes with 2 million participants and 3.5 million lost workdays in all of 2000. The law prohibits retaliation against strikers.

Unions are free to form or join federations and affiliate with international bodies and do so without hindrance.

### b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively, including for all workers in the public sector except military personnel, and unions exercise this right in practice. Public sector collective bargaining in 1990 was broadened to include salaries and employment levels, but the Government retained the right to set these if negotiations failed. Collective bargaining agreements are widespread in both the public and private sectors; in the latter they cover 60 percent of workers, even though only about 15 percent of workers are union members.

The law prohibits discrimination by employers against trade union members and organizers. Discrimination cases have priority in the labor courts. The law gives unions a role in controlling temporary work contracts to prevent the abuse of such contracts and of termination actions. Unions nonetheless contend that employers practice discrimination in many cases by refusing to renew the temporary contracts of workers engaging in union organizing. Approximately one-third of all employees are under temporary contracts.

Labor regulations and practices in free trade zones and export processing zones are the same as in the rest of the country. Union membership in these zones is reportedly higher than the average throughout the country.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including that performed by children; however, there were instances of trafficking in women for prostitution (see Section 6.f.).

The Government prohibits forced or bonded labor by children; however, there were reports of trafficking in teenage girls for prostitution (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment of Children

The statutory minimum age for the employment of children is 16 years. The law also prohibits the employment of persons under the age of 18 at night, for overtime work, or in sectors considered hazardous. The Ministry of Labor and Social Affairs is primarily responsible for enforcement, and the minimum age is enforced effectively in major industries and in the service sector. It was more difficult to enforce the law on small farms and in family-owned businesses, where some child labor persisted. Legislation prohibiting child labor is enforced effectively in the special economic zones.

In April the Government ratified ILO Convention 182 on the worst forms of child labor.

The law prohibits forced or bonded labor by children; however, there were reports of trafficking in teenage girls for prostitution (see Section 6.f.).

e. Acceptable Conditions of Work

Each year the Government revises its minimum wage for workers over age 18, in line with the consumer price index. In December the Government raised the minimum wage for 2002 by 2 percent, to \$394 (442.20 euros) monthly or \$13.13 (14.74 euros) daily. The national minimum wage provides a decent standard of living for a worker and family. The Ministry of Labor effectively enforces the minimum wage. The law sets a 40-hour workweek with an unbroken rest period of 36 hours after each 40 hours worked. Workers enjoy 12 paid holidays a year and a month's paid vacation.

The National Institute of Safety and Health in the Ministry of Labor and Social Security has technical responsibility for developing labor standards, but the Inspectorate of Labor has responsibility for enforcing the legislation through judicial action when infractions are found. Unions have criticized the Government for devoting insufficient resources to inspection and enforcement. Workers have firm legal protection for filing complaints about hazardous conditions, but easily replaced temporary workers may be reluctant to use this protection for fear of losing their jobs.

Unions and immigrant rights NGO's report that illegal immigrants often work for substandard pay and in substandard conditions, mainly in agriculture. The Inspectorate of Labor reported 5,125 cases of labor rights violations related to immigrants during 2000, and 5,545 such violations in the first 9 months of the year. In December 2000, the Government amended the immigration law to increase sanctions on employers who hire illegal aliens and to draw a sharper distinction between the rights afforded to legal versus illegal immigrants. Under the amended law, illegal aliens do not have the right to join unions or strike.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in women and teenage girls remained a problem. Trafficking involves almost exclusively the importation of women for prostitution, although there are reports of occasional cases in which victims are employed in other work, including agriculture and sweatshops. Trafficked women are usually 18 to 30 years of age, but sometimes are girls as young as age 16. There are few reports of trafficking in younger minors.

Women are trafficked primarily from Latin America (Colombia, Dominican Republic, Brazil), East European countries, sub-Saharan Africa (Nigeria, Guinea, Sierra Leone), and, to a lesser extent, North Africa. Asians, including Chinese, are trafficked to a much lesser degree, and more often for work other than prostitution. Traffickers use coercion, including confiscation of documents, violence, and threats against family members to keep victims working in prostitution. As a group, women from Eastern Europe reportedly are subject to more severe violence and threats on the part of traffickers. Some victims from sub-Saharan Africa reportedly are

sold to traffickers by members of their own families. Traffickers lure some victims from other regions with false promises of employment in service industries and agriculture and then force them into prostitution upon arrival in Spain.

The 2000 Immigration law redefined trafficking as a criminal offense. The penalty for trafficking is 2 to 4 years' imprisonment and a fine, or 6 to 12 years if the crime is committed by a public official. The exploitation of prostitutes through coercion or fraud and the exploitation of workers in general also are illegal, although prostitution is legal. Trafficking in workers is punishable by 2 to 5 years' imprisonment and a fine. During 2000 law enforcement agencies arrested over 1,000 individuals involved in some aspect of trafficking in persons or migrant smuggling and initiated over 700 prosecutions.

The Government specifically targets trafficking as part of its broader plan to control immigration; for example, the police actively pursue and prosecute mafias who use false identity documentation for immigrant smuggling of all kinds, including trafficking. Within the Interior Ministry, the National Police Corps has primary responsibility for all matters pertaining to immigration, including trafficking. Regional authorities also participate in fighting organized criminal activity, including trafficking. In addition the Interior Ministry chairs an interagency committee on all immigration issues, including trafficking. The Ministries of Foreign Affairs, Health, Education, Treasury, and Labor also are members of the committee. The main police school gives courses on trafficking issues, such as the recognition of fake documents and the best ways to identify traffickers.

The law allows for trafficked persons to remain in the country if they agree to testify against the perpetrators. After legal proceedings conclude, the individual is given the option of remaining in Spain or returning to the country of origin. Victims are encouraged to help police investigate trafficking cases and to testify against traffickers. The Government works with and provides funding to NGO's that provide assistance to trafficking victims. In addition regional and local governments provide assistance either directly or through NGO's.

Project Hope, a program backed by the Catholic NGO Las Adoratrices and government agencies, is the first program specifically intended to assist trafficking victims. The project operates shelters in Madrid and provides assistance with medical and legal services and acts as liaison with law enforcement for victims who choose to testify against traffickers. Project Hope receives many of its referrals directly from police. In 2000 the Campaign Against Trafficking in Women, a coalition of NGO's with support from the Ministry of Labor, published a booklet on the problems of trafficking.